

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 302

Introduced by Assembly Member Cristina Garcia

February 12, 2015

An act to add Section 222 to the Education Code, relating to pupil services.

LEGISLATIVE COUNSEL’S DIGEST

AB 302, as amended, Cristina Garcia. Pupil services: lactation accommodations.

Existing law requires ~~every~~ *an* employer to provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee’s infant child. Existing law requires the employer to make reasonable efforts to provide the employee with the use of a room or other location, other than a toilet stall, in close proximity to the employee’s work area, for the employee to express milk in private. Existing law establishes the California School Age Families Education Program, which is a comprehensive, continuous, and community linked school-based program that focuses on youth development and dropout prevention for pregnant and parenting pupils and on child care and development services for their children.

~~This bill would express the intent of the Legislature to enact legislation that would respect and uphold the rights and education opportunities of pregnant and parenting pupils, including providing lactation accommodations.~~

Existing federal law requires an educational institution to treat pregnancy, childbirth, recovery from childbirth, and other specified conditions in the same manner and under the same policies as any other

temporary disability. Existing law also prohibits discrimination on the basis of disability, gender, or other specified characteristics in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state financial aid.

This bill would require a school district to provide reasonable accommodations to a lactating pupil on a high school campus to express breast milk, breastfeed an infant child, or address other needs related to breastfeeding. The bill would require that these reasonable accommodations include, but are not limited to, access to a private and secure room, other than a restroom, to express breast milk or breastfeed an infant child, permission to bring onto a school campus any equipment used to express breast milk, access to a power source for that equipment, and access to a place to safely store expressed breast milk. The bill would also require that a lactating pupil on a high school campus be given a reasonable amount of time to accommodate the need to express breast milk or breastfeed an infant child. The bill would require a school district to provide reasonable accommodations, as specified, only if there is at least one lactating pupil on a high school campus in that district. The bill would also include a statement of legislative findings and declarations. By imposing additional duties on school districts, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Title IX of the Education Amendments of 1972 (20 U.S.C.
- 4 Sec. 1681 et seq.) prohibits sex discrimination in educational

1 *institutions, which includes discrimination against pregnant and*
2 *parenting pupils.*

3 *(b) The federal regulations implementing Title IX of the*
4 *Education Amendments of 1972 specify that sex discrimination*
5 *includes discrimination against a pupil based on pregnancy,*
6 *childbirth, false pregnancy, termination of pregnancy, or recovery*
7 *from childbirth-related conditions.*

8 *(c) The federal regulations implementing Title IX of the*
9 *Education Amendments of 1972 require a pupil with temporary*
10 *medical conditions occasioned by pregnancy or related to recovery*
11 *from childbirth to be treated the same as any other pupil with a*
12 *temporary disability.*

13 *(d) The Sex Equity in Education Act (Article 4 (commencing*
14 *with Section 221.5) of Chapter 2 of Part 1 of Division 1 of Title 1*
15 *of the Education Code) prohibits sex discrimination in educational*
16 *institutions, which includes discrimination against pregnant and*
17 *parenting pupils.*

18 *(e) The regulations implementing the Sex Equity in Education*
19 *Act prohibit educational institutions from applying any rule*
20 *concerning a pupil's actual or potential parental, family, or marital*
21 *status that treats a pupil differently on the basis of sex.*

22 *(f) The Unruh Civil Rights Act (Section 51 of the Civil Code)*
23 *prohibits businesses, including public schools, from discriminating*
24 *based on sex, which includes discrimination on the basis of*
25 *pregnancy, childbirth, or medical conditions related to pregnancy*
26 *or childbirth.*

27 *(g) Denial of accommodations to a pupil who chooses to*
28 *breastfeed or express breast milk while at school is prohibited sex*
29 *discrimination.*

30 *(h) Despite these laws, California schools are failing to*
31 *accommodate the needs of lactating pupil parents on their*
32 *campuses by providing them with reasonable time and private*
33 *space to express breast milk, breastfeed infant children, or address*
34 *other needs related to breastfeeding.*

35 *SEC. 2. Section 222 is added to the Education Code, to read:*

36 *222. (a) A school district shall provide reasonable*
37 *accommodations to a lactating pupil on a high school campus to*
38 *express breast milk, breastfeed an infant child, or address other*
39 *needs related to breastfeeding. Reasonable accommodations under*
40 *this section include, but are not limited to, all of the following:*

1 (1) Access to a private and secure room, other than a restroom,
2 to express breast milk or breastfeed an infant child.

3 (2) Permission to bring onto a school campus a breast pump
4 and any other equipment used to express breast milk.

5 (3) Access to a power source for a breast pump or any other
6 equipment used to express breast milk.

7 (4) Access to a place to store expressed breast milk safely.

8 (b) A lactating pupil on a high school campus shall be provided
9 a reasonable amount of time to accommodate her need to express
10 breast milk or breastfeed an infant child.

11 (c) A school district shall provide the reasonable
12 accommodations specified in subdivisions (a) and (b) only if there
13 is at least one lactating pupil on a high school campus in that
14 district.

15 SEC. 3. If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.

20 ~~SECTION 1. It is the intent of the Legislature to enact~~
21 ~~legislation that would respect and uphold the rights and education~~
22 ~~opportunities of pregnant and parenting pupils, including providing~~
23 ~~lactation accommodations.~~